



Atty Dkt PP00366.103
2302-0366
PATENT

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Election
4/27/01

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

ABRIGNANI et al.

Serial No.: 09/509,612

Group Art Unit: 1648

Filing Date: March 29, 2000

Examiner: Donna C. Wortman

Title: HEPATITIS C RECEPTOR PROTEIN CD81

TRANSMITTAL LETTER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Transmitted herewith for filing is a Response to Requirement for Restriction mailed March 23, 2001. No fee is due.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 18-1648.

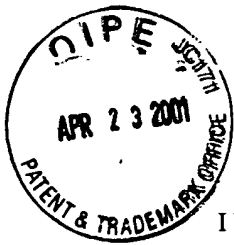
Respectfully submitted,

Date: 4/19/01

By: Roberta L. Robins

Roberta L. Robins
Registration No. 33,208
Attorney for Applicants

CHIRON CORPORATION
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097
Telephone: (650) 325-7812
Facsimile: (650) 325-7823



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RESPONSE TO REQUIREMENT FOR RESTRICTION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Restriction Requirement dated March 23, 2001, for which a response is initially due April 23, 2001. Accordingly, this paper is timely filed.

The Examiner required election of one of the following groups of claims for prosecution at this time:

Group I. Claims 1-5, 8-13, 25 and 26, insofar as each claim is drawn to CD81 protein and compositions comprising CD81 protein;

Group II. Claims 6, 8, 10, 11, insofar as each claim is drawn to a compound that binds CD81 protein and compositions comprising such compound;

Group III, Claim 7, insofar as the claim is drawn to a method of treatment using CD81;

Group IV, Claim 7, insofar as the claim is drawn to a method of treatment using a compound that binds to CD81;

Group V, Claims 14-18, drawn to assay methods using CD81;

Group VI, Claims 19 and 20, drawn to a transgenic animal carrying a CD81 transgene; and

Group VII, Claims 21-24, drawn to nucleic acids that encode CD81 protein.

Applicants hereby elect to prosecute Group III, claim 7, with traverse. Applicants expressly reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application.

In particular, It is unclear to the applicants how claims 8, 10 and 11 can be included in both Groups I and II. It is impossible for claims 8, 10 and 11 to be "patentably distinct" from themselves. Similarly, claim 7 is included in Groups III and IV. Applicants query whether the Examiner actually intended an election of species. If so, applicants elect to proceed with the species of claim 7 which is directed to a method of treatment using CD81. It is to be understood that this election of species is for the purposes of preliminary search and examination only, and that upon allowance of a generic claim, applicants will be entitled to consideration of claims to the additional species.

Reconsideration of the Restriction Requirement is respectfully requested.

Respectfully submitted,

Date: 4/19/01

By: 

Roberta L. Robins
Registration No. 33,208
Attorney for Applicants

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